

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

February 22, 2011

John A. McKinsey  
Stoel Rives, LLP  
500 Capitol Mall, Ste. 1600  
Sacramento CA 95814

<b>DOCKET</b> 11-AFC-1
DATE FEB 22 2011
RECD. FEB 24 2011

RE: **Application for Confidentiality, Cultural Resources**  
**Application for Confidentiality, Paleontological Resources**  
**Pio Pico Energy Center**  
**Docket No. 11-AFC-1**

Dear Mr. McKinsey:

On February 7, 2011, you submitted two Applications for Confidentiality on behalf of Pio Pico Energy Center, LLC, ("Applicant") for the Pio Pico Energy Center Project (Docket No. 11-AFC-1). The first application seeks confidential designation for a report which includes maps of cultural resources sites and results of a field survey; literature search, and archival research regarding potential cultural resources. The second application seeks confidential designation for a report which includes maps of paleontological resources sites and results of a field survey, literature search, and archival research regarding potential paleontological resources. The two applications are substantially similar and will both be addressed in this determination.

Applicant states that the reports identify the potential locations of cultural and paleontological resource sites in the project area, and that:

. . .disclosure of such information could heighten the risk of unauthorized excavation of such resources, and/or unauthorized removal of the same from locations of potential resources referenced in the report(s).

A properly filed application for confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential."

The California Public Records Act provides for the nondisclosure of archaeological site information and reports. (Gov. Code, sec. 6254.10.) The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code, sec. 6254(k).) The

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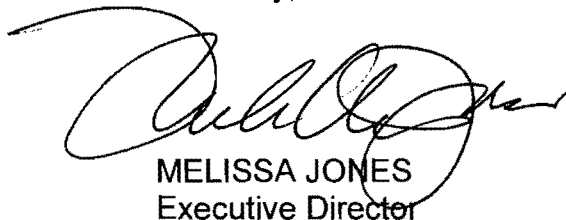
Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. sec. 470hh.) Non-disclosure of cultural and paleontological resources, such as the information that you have submitted in the above referenced reports, is expressly in the public interest.

Therefore, both of Applicant's February 7, 2011, confidentiality applications are granted in their entirety. The documents will be kept confidential for an indefinite period.

Any subsequent submittals related to cultural or paleontological resources can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if you file a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506. If you have any questions concerning this matter, please contact Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,



MELISSA JONES  
Executive Director

cc: Docket Unit  
Eric Solorio, Commission Project Manager